



EMPLOYMENT TRIBUNALS

Claimant: Amanada Whiteland-Smith

Respondent: Citizens Advice Solent East

JUDGMENT OF THE EMPLOYMENT TRIBUNAL

Heard at: Southampton

On: 10 -11 March 2026

Before: Employment Judge K. Richardson
Tribunal Member P. English
Tribunal Member L. Wakeman

Appearances

For the Claimant: In person

For the Respondent: Miss Cho (counsel)

WRITTEN REASONS

1. This is the unanimous judgment of the Tribunal.
2. For clarity we should state that this judgment does not seek to address every point about which the parties have disagreed. It only deals with the points which are relevant to the issues which the Tribunal must consider in order to decide if a claim succeeds or fails. If we have not mentioned a particular point or piece of evidence it, it does not mean that we have overlooked it, it is simply because it is not relevant to the issues.
3. By claim form submitted on the 16 April 2025 the Claimant complains of constructive unfair dismissal. The ACAS certificate is dated 23 February 2025 to 19 March 2025 so matters complained about are within time.
4. The Claimant was employed from the 10 December 2012 to the 14 February 2025 as Service Delivery Manager at Citizens Advice Solent East. No time limit jurisdictional issues arise in this claim.

5. For reference at this hearing the Tribunal was presented with a 230-page bundle including an index.
6. The Claimant presented a witness statement on her own behalf and gave evidence at the hearing. She also submitted a statement from Mr Jonathan Stuart, a consultant supporting the merger between Citizen's Advice Havant and Citizen's Advice Portsmouth who gave evidence at the hearing.
7. The Respondent submitted three witness statements:
 - a. Kim Taylor, Head of People with the Respondent; (KT)
 - b. Sandy Bramley, CEO with the Respondent (SB);
 - c. Stef Nienaltowski, Chair of the Respondent (SN).

All of whom gave evidence at the hearing.

8. At the start of the hearing, it was confirmed that the Claimant asserts constructive dismissal based on a breach of the implied term of mutual trust and confidence. It was agreed by the parties that the Tribunal needed to determine the following in respect of matters of liability:

The Issues

Constructive unfair dismissal

- a. The Tribunal will need to decide:
 - i. Whether the Respondent behaved in a way that was calculated or likely to destroy or seriously damage the trust and confidence between the Claimant and the Respondent.
 - ii. Whether the breach was so serious that the Claimant was entitled to treat the contract as being at an end; and
 - iii. Whether the Respondent had reasonable and proper cause for its behaviour.
- b. Did the Claimant resign because of the breach?
 - i. The Tribunal will need to decide whether the breach of contract was a reason for the Claimant's resignation.
- c. Did the Claimant wait too long before resigning and affirm the contract?
- d. In the event that there was a constructive dismissal, was it otherwise fair within the meaning of s. 98(4) of the Employment Rights Act 1996?

The Facts

9. The following facts were found to be proven on the balance of probabilities after considering the whole of the evidence, both oral and documentary, and after considering the factual and legal submissions made by and on behalf of the respective parties.
10. The Respondent is an independent charity providing advice to the public in the Portsmouth, Gosport and Havant areas. It was formed following a merger between Citizens Advice Portsmouth and Citizens Advice Havant on 1 October 2024. Issues giving rise to this claim relate to the period just prior to the merger and immediately after it.
11. The Claimant has cited a number of specific incidents in support of her contention that she was constructively dismissed. We have described these below.

Change management

12. It was the Claimant's case that the management of the merger was mishandled by the Respondent in a manner which ultimately resulted in her suffering medical issues arising out of stress and anxiety. On 12 August 2024 a consultation meeting was held at Havant with KT during which an organisational chart and various other information was imparted to the Havant team about the appointment of individuals to key roles. There were also potential issues in relation to sick leave allowances which, for Havant, had previously been very generous (six months' pay). A further meet and greet zoom meeting was held with SB and Phil Marshall (Portsmouth Contracts Manager at that time) where the Claimant was given verbal assurances that there would be no change to her role.
13. The Claimant asserts that in reality communication between Havant and Portsmouth was not good and cites the appointment of Mr Marshall as the COO of the Respondent as an example of this. The Claimant felt moved to write to Robert Sweatman, vice-chair of the Respondent to complain that this appointment had not been communicated to the Havant staff. The Claimant expressed her concerns that poor communications could have a damaging impact on service.
14. It was the Claimant's position that notwithstanding requests of this nature, issues continued to arise throughout the merger process and afterwards. Some of those issues are referred to later in this judgment.
15. The Respondent's position was that whilst the communications may not have been perfect, given the size and resources available to the Respondent, they did the best they could. It was emphasised in the testimony from SB that she had spent a lot of time interacting directly with the Claimant and when issues developed between her and her immediate line manager, Mr Marshall, she intervened to change the reporting line to her to ameliorate any difficulties. It was the Respondent's case that efforts were made to make incorporation of the

Havant team as smooth as possible including meet and greet events of the type referred to by the Claimant.

16. SB was very clear that she spent time listening to concerns raised by the Claimant and her proposals to address them. As an example of her reacting to such issues, she made arrangements for the Portsmouth policy and procedures to be made available to the Havant staff in an electronic dropbox which they could access even though they were not on the Microsoft system being used by Portsmouth. We shall refer to this later in the judgment, however we note that the Claimant denies that she had any knowledge of the dropbox system.
17. In his testimony SN explained that the main driver for the merger between Havant and Portsmouth was the parlous financial state that Havant was in prior to the merger. Apparently it had debts in excess of £81,000 along with an interest-free loan from the National CAB of some £30,000. He accepted that there were issues in the merger process, but stressed that the Respondent was not an entity with massive resources either in terms of funds or manpower. In the circumstances it was probably inevitable that there were difficulties which had to be managed as well as was possible.

Email exchanges between the Claimant and the Respondent's chief operating officer Mr Paul Marshall

18. The background to this email exchange was that the Claimant and Mr Marshall had spent a significant period of time during the course of face-to-face meetings in the Havant office discussing the significance and importance of volunteers to the service provided in Havant. It was the Claimant's impression that Mr Marshall did not really understand this as well as he might have done because it was not the culture to use volunteers in quite the same way in Portsmouth.
19. On 10 September 2024 KT sent Mr Marshall a list of the volunteers working in Havant. Mr Marshall emailed the Claimant on the same day seeking clarification of the figures that KT had sent to him. The email from Mr Marshall read as follows:

"Good morning Amanda

I wondered if you could clarify something for me?

Talking to team members over the last couple of visits, I have been given two separate numbers when discussing total Havant volunteer workforce.

45

60

Firstly, can you confirm which of these numbers you believed to be the correct one?

Secondly, below is a list sent over to Kim - if you confirm 45 as our number,

please can you confirm the 15 volunteers who have left from that list.”

20. The Claimant replied on 16 September clarifying the position and concluding her email by stating:

“We have had three receptionists leave this year, one to a paid job and an adviser to a caring role. 60 was only ever an estimate, but I think closer than 45. I did try to compare the lists, but with no printer at home and a laptop screen life felt too short.”

21. Mr Marshall responded the same day as follows:

“Hi Amanda

I see the scenario (smiley face emoji)

45 advice volunteers

12 reception volunteers

*total **59***

Looking at the two sets of lists I can see that we do not have the following four individuals on both

[Names listed]

Please confirm whether they are still on the books - if not confirm that all IT equipment has been returned and all accesses to CA systems have been revoked....”

22. The Claimant responded the same day clarifying the points requested and concluded her email with the following paragraph:

“If you are free for a chat it might be good to clear the air. It was a very challenging week last week, with both my full-time supervisors off. I found the email you sent on Wednesday morning very offensive. Large bold type and a request to explain myself was out of order.”

23. When cross-examined as to why she found the emails from Mr Marshall offensive, the Claimant stated that she felt that, despite having spent a significant amount of time in face-to-face meetings with him to explain the situation, he did not believe her. On further cross-examination she conceded that it was possible she had misconstrued Mr Marshall's emails.

24. Following on from this apparent breakdown of relations with Mr Marshall, SB the Respondent's CEO, changed the Claimant's reporting lines from Mr Marshall to her. The Claimant confirmed that she never raised a grievance regarding her perception of the tone of Mr Marshall's emails.

25. In her testimony SB explained that the members of the leadership team at the Respondent had made complaints to her about communications received from the Claimant during the course of the transition process. The complaint was that emails could be abrupt and offence taken where none was intended. In response to this SB attempted to put in place procedures such as a code of conduct for communications and a separate guide to email communication which she hoped would ameliorate the problem. Notwithstanding this she spent a significant amount of time being asked to review communications to the Claimant before they were sent by the leadership team in order to try to ensure that they did not cause offence. SB also stated that the Claimant was very protective of communications with the Havant team and had insisted that communications with them were channelled through her. The Respondent cited as evidence of this the email from SN to the Claimant of 29 November 2024 which is referred to later in this judgment. This specifically asked the Claimant to disseminate that email to her team.
26. In her statement KT reiterated the points made by SB regarding communications with the Claimant.
27. The Claimant denies that she insisted that communications with her team should be channelled through her or that her interactions with the leadership team evidenced any undue sensitivity or overly robust communication on her part.
28. Taking into account the weight of evidence both oral and documentary on this issue we prefer the Respondent's description of the issues associated with communications with the Claimant.

Failure to provide access to Policies and Procedures

29. Problems arose due to the fact that Havant and Portsmouth used different operating systems for storing local policies and procedures. Havant used a Google based system whereas Portsmouth used a Microsoft "One Drive" system plus a proprietary HR software package. The Claimant asserts that she was not included in the planning to resolve the problems caused by the incompatibility of these two operating systems and only received a Microsoft login on 28 November 2024. The situation caused problems for the Claimant as she asserted that the Havant staff had no access to Portsmouth policies and procedures. The Claimant raised this with the senior leadership team as she was also being sent links to documents which she could not access. The Claimant asserted that this was not resolved until after she resigned.
30. As is referred to earlier in this judgment SB stated that the problems caused by the mismatch between the operating systems was addressed by providing the Havant team with access to a dropbox which contained the Portsmouth policies. She also asserted that there was not much difference in real terms between the local policies used by Portsmouth and those used by Havant. Portsmouth had slightly more, but overall there was significant similarity in SB's assessment. She also asserted that the actual impact on the Claimant of not having access to these policies was minimal because she could always request copies from

Portsmouth which could be emailed to her. The Claimant accepted that but pointed out that that was not something that she could do at the weekend or in the evenings when there was no one in Portsmouth to respond.

Multiple minor issues resulting in disruption to the Claimant's work and causing mental distress and anxiety

31. In her particulars of claim and her statement, the Claimant makes reference to multiple "minor" issues which she says caused her considerable stress which ultimately impacted on her mental health. It is the Claimant's contention that these issues could have been resolved if proper communication processes have been put in place. She asserts that these issues were impacting on staff morale and frequently took a week or more of emails to resolve.

32. The issues were listed in her particulars of claim and are set out below:

- a. Email addresses used for volunteers were not those supplied to the Respondent
- b. Unnecessary levels of communication inappropriately shared with volunteers, including daily updates on staff sickness
- c. Contracts to be requested of Havant volunteers
- d. Birthdays being shared in a district wide communication called chitchat
- e. All feedback from volunteers needed to be brought by the volunteer representative, who was in America for four weeks
- f. Paid staff to complete a new job pack, which included signing blank authority for the Respondent's HR to contact medical or dental services
- g. Multiple issues with the October payroll, including a data breach, incorrect national insurance numbers, problems with student loans and deductions for pensions
- h. The Claimant's wage slip was sent to an incorrect email address and consequently the email was forwarded to her by her ex-husband. The Claimant understands this to be a data breach that should have been reported to the National organisation, but she has received no evidence of this
- i. Failure to engage with the heating failure in the Havant offices and misinformation regarding a move to alternative premises, which undermined confidence in the senior leadership team
- j. Lack of clarification over the difference between flexible working and the TOIL policy. A change to flexible working would have represented a major change in the contract term following the merger

- k. A new phone was installed as a cost saving measure without consultation or an understanding of why the phone was used
 - l. Reporting responsibilities were delegated to another member of staff who the Claimant managed without consultation requiring her to cover some of that staff member's work
 - m. Multiple changes to the form and process for claiming expenses.
33. The only item in this list that was elucidated upon during the course of the Claimant's testimony was item "a" relating to the use of incorrect emails. The Claimant explained that some volunteers preferred to use their personal email address for communications whilst others preferred to use their official email address. Unfortunately, the mix-up with the emails resulted in communications being sent to personal email addresses which caused complaints to be addressed to the Claimant. The Claimant stated that this took approximately two weeks to address.
34. The Claimant felt that she was constantly defending the merger against complaints and was becoming increasingly mentally stressed about the situation. She discussed the situation with SB who agreed to grant four days of compassionate leave without being contacted by work to give her time to reset.
35. On returning from leave the Claimant said that she felt ready to attempt a reset of the situation and set about arranging 1:1 meetings with the leadership team with a view to achieving that end.

Death of a client on 22 November 2024

36. On Friday 22 November 2024 a client collapsed in the reception area of the Havant office. The Claimant and a colleague applied CPR but, despite their best efforts and those of the emergency services, the client died.
37. SB was informed of the incident during the course of that morning and the Claimant sent a further message later in the day. The Claimant confirmed that SB offered to come over from the Isle of Wight where she lived, but the Claimant that she did not think it would be worth it given the time that would take.
38. The Claimant denied that the offer from SB evidenced concern for or a willingness to support the Claimant. She felt that all she received was a quick call and denied that SB was checking on or showing concern for the her emotional wellbeing.
39. During the course of the following weekend the Claimant produced an incident report. She also sent an email to the Respondent's vice-chair, Robert Sweatman, informing him about the incident on Sunday, 24 November 2024. Mr Sweatman, responded one and a half hours after receiving the Claimant's email stating:

"Hi Amanda

I am so sorry - I cannot imagine how hard that must have been or traumatic for all those involved. Is there anything that would be helpful for you or your team this week?

And just a reminder that all staff and volunteers have access to the employee assistance program, including personal counselling service.

I will let [SN] know, but I would expect that Sandy has already done so."

40. After sending the email to the Claimant Mr Sweatman sent an email to SN to advise him of the incident which he acknowledged the following day.

41. On Monday 25 November 2024 SB emailed the Claimant stating:

"Hi Amanda

I hope all is well and you are feeling OK after Friday x.

I would like to send details of the incident on Friday to the board. Do you mind sending me the names of those who were affected and a brief summary of the incident and actions."

42. The Claimant denied this email was supportive of her describing it as simply a request for an incident report. The Claimant responded the same day in what she described as a factual manner despite feeling very emotional after the incident.

43. Approximately 17:00 hours on Monday, 25 November 2024 SB emailed the incident report prepared by the Claimant to SN.

44. On being pressed during cross-examination about what further assistance she would have expected from the Respondent, the Claimant conceded that she did not actually ask for anything in particular. She explained that the reason for this was she was not sure what she actually needed as this was an issue that she had never had to deal with before. She accepted that she had not tried to use the employee assistance program because her previous experience of doing so had been very negative. She described being put on hold and listening to an American voice telling her that her call was important and that they would get to her as soon as they could. She stated that she was so upset that she could not face that sort of treatment over the weekend.

45. On Tuesday 26 November 2024 SN sent an email to the board detailing the facts of the incident and specifically referencing the efforts made by the Claimant and her colleague to resuscitate the client. His email concluded by stating:

"Sandy and I will ensure that every employee assistance is given to those involved and later today I will be writing to all Havant staff with our action plan

to support those affected by this sad situation.”

46. In his testimony SN explained that at the time the incident occurred on 22 November 2024 he had been on leave. In his absence the vice-chair, Paul Sweatman, had been covering for him.

47. As well as acting as the chair for the Respondent SN also holds four other roles two of which were paid and two which were voluntary. Consequently, in the week after returning from leave his workload was very high. The situation was further exacerbated by the fact that he takes an active role in the care of a man who suffers with Asperger's syndrome who, at around the time SN received the incident report, developed a retinal detachment in his only functioning eye. By virtue of this and his other workload the preparation of this communication to the Havant staff was delayed until Friday 29 November 2024.

48. The email from SN read as follows:

“Amanda. Please can you send this email of mine to the entire Havant team.

I am writing to express my deepest gratitude and admiration for the heroic efforts you and Rachel did in attempting to save [redacted]'s life on Friday, November 22nd. Your quick thinking, compassion, and dedication to helping others is truly inspiring.

I understand that this was a deeply traumatic event, and I want to assure you that we are here to support you in any way we can. Please can you make sure that anyone affected by this traumatic event uses the employee assistance programme. This support programme is available to anyone that needs it for any length of time.

The Board of Trustees is committed to providing any necessary counselling or support services to help you ALL cope with this difficult experience.

I would also like to extend my sincere thanks to the entire Havant team for their support and understanding during this challenging time. The collective efforts of the other people in reception at the time, and those who were involved in the event is truly wonderful in terms of human care and support.

You all reacted exactly as you would have hoped, and I understand you all maintained a sense of calm and professionalism. You did all you could to prevent the outcome despite not have (sic) the adequate tools in terms of working defibrillators.

Please pass along my gratitude to all staff members who were affected by the incident. Again, please know we are here to support you and offer any assistance you may need.”

49. In her statement KT advised that an on-site trauma counsellor had been arranged to attend the Havant office on 29 November 2024 to support all of the staff involved in the incident. For reasons which are not clear the counsellor

failed to attend, even though there was clear evidence provided by the Respondent of the booking and the fact that it was paid for. The Claimant described this as more traumatic than the events of 22 November 2024 for her. She stated several members of the team who struggled to come in felt extremely let down by the fact that no one turned up. The Claimant said she felt she had contributed to their trauma, although she did not explain how that could be the case when she had no involvement in the booking.

50. The Claimant received SN's email of 29 November 2024 whilst waiting for the counsellor to arrive. In her testimony she described the email as late and distressing. In her view this email was very impersonal being sent to the entire team rather than something being sent to her and her colleague who had actually been involved in the attempts to resuscitate the client. From her perspective all that this email served to do was to force her to relive the trauma of the previous week. She also felt that it was far too late to send something of this nature without some explanation as to why there had been a delay. The Claimant asserted in her testimony that several other Havant staff members commented on how long it had taken SN to react to the incident.
51. Within 30 minutes of receiving the email from SN the Claimant responded copying SB in the following terms:

"Dear Stef

I will of course pass on your email. From my own perspective and that of several of my colleagues, it does seem a little late. Sandy has been very supportive and we are grateful for Kim arranging for a counsellor to come into the office today."

52. In his testimony SN described his reaction on receiving the email from the Claimant. His view was that it was unprofessional and insulting. He responded on 2 December 2024 expressing his concerns in the following manner:

"Amanda

You should read this email very carefully and respond to the second and third items I have listed here today, Monday.

I have taken the most serious objection to your email and the comment that "it does seem a little late" I will consider what I do next over the coming days, but I am putting the CASE head of HR on copy as I may take this insult further.

I am a volunteer and hence I should be treated with fairness and respect neither of which you have shown me with this comment. You can have no idea what my priorities were last week, and to use the term "late" means that a deadline or commitment was set or agreed, and none were. I strongly object to the use of the English language and statement you have made not only to me, but you have involved others with Sandy being on copy.

I have worked for the past 83 months for this, all the previous LCA organisation

and I have never been spoken to or treated this way before.....”

53. In her statement the Claimant said that she was appalled by the tone of this email and felt that her job was at risk. As far as the Claimant was concerned this was the last straw.
54. During the weekend after the incident on 22 November 2024 the Claimant applied for a Head of Advice Services position with Citizens Advice East Hampshire. She stated that the reason she applied for the job was that it was identical to the one that she had currently and she was not sure she could continue to work for the Respondent due to the environment that existed there.
55. The Claimant attended an interview with East Hampshire on the afternoon of 2 December 2024 and was offered the job the following day. She discussed the situation with SB and made it clear that she did not wish to leave, but felt that the email from SN of 2 December 2024 was the last straw if there was no way that a resolution could be reached. SB said she would speak to SN, but the Claimant heard nothing further from either of them and so resigned on 5 December 2024.
56. In his testimony SN stated that SP had informed him that the Claimant was threatening to leave and it was his understanding that the Claimant expected him to apologise to her for the tone/content of his email of 2 December otherwise she would leave. SN stated that he did not believe he had anything to apologise for and it was his belief that this had been communicated to the Claimant.
57. The Claimant commenced work for East Hampshire on 17 February 2025.

The Law

58. Under section 95(1)(c) of the Employment Rights Act 1996 (the “Act”), an employee is dismissed if he terminates the contract under which he is employed (with or without notice) in circumstances in which he is entitled to terminate it without notice by reason of the employer’s conduct.
59. If the Claimant’s resignation can be construed to be a dismissal, then the issue of the fairness or otherwise of that dismissal is governed by section 98(4) of the Act which provides:
- “.... the determination of the question whether the dismissal is fair or unfair (having regard to the reason shown by the employer) – (a) depends on whether in the circumstances (including the size and administrative resources of the employer’s undertaking) the employer acted reasonably or unreasonably in treating it as a sufficient reason for dismissing the employee, and – (b) shall be determined in accordance with equity and the substantial merits of the case”.
60. With regard to trust and confidence cases, Dyson LJ summarised the position in **Omilaju v Waltham Forest London Borough Council ICR 481 CA**: The

following basic propositions of law can be derived from the authorities:

1. The test for constructive dismissal is whether the employer's actions or conduct amounted to a repudiatory breach of the contract of employment: **Western Excavating (ECC) Limited v Sharp [1978] 1 QB 761, CA.**

2. It is an implied term of any contract of employment that the employer shall not without reasonable and proper cause, conduct itself in a manner calculated or likely to destroy or seriously damage the relationship of confidence and trust between employer and employee: see, for example **Malik v Bank of Credit and Commerce International SA [1998] AC 20, 34H – 35D (Lord Nicholls) and 45C – 46E (Lord Steyn). (Supreme Court)** we shall refer to this as “the implied term of trust and confidence”.

3. Any breach of the implied term of trust and confidence will amount to a repudiation of the contract, see, for example, per Browne-Wilkinson J in **Woods v WM Car Services (Peterborough) Ltd [1981] ICR 666 CA**, at 672A; the very essence of the breach of the implied term is that it is calculated or likely to destroy or seriously damage the relationship.

4. The test of whether there has been a breach of the implied term of trust and confidence is objective. As Lord Nicholls said in **Malik** at page 35C, the conduct relied on as constituting the breach must: “impinge on the relationship in the sense that, looked at objectively, it is likely to destroy or seriously damage the degree of trust and confidence the employee is reasonably entitled to have in his employer”.

61. **Kaur v Leeds Teaching Hospitals NHS Trust [2019] ICR 1 CA**

62. **Lewis v Motorworld Garages Ltd [1986] ICR157 CA**

63. **Logan v Customs and Excise Commissioners 2004 ICR 1, CA**

64. **Wright v North Ayrshire Council 2014 ICR 77, EAT**

Decision

65. In this matter the Claimant is asserting that she was constructively dismissed pursuant to the terms of s.98(1)(c) of the Employment Rights Act 1996. She alleges that the Respondent's repudiatory conduct comprised a series of acts or incidents which cumulatively amounted to a breach of the implied term of trust and confidence.

66. Applying the Court of Appeal guidance in **Kaur v Leeds Teaching Hospitals NHS Trust** we need to consider the following questions in relation to this matter:

- a. What was the most recent act (or omission) on the part of the employer which the employee says caused, or triggered, her resignation?

- b. Has she affirmed the contract since that act?
- c. If not, was that act (or omission) by itself a repudiatory breach of the contract?
- d. If not, was it nevertheless a part of a course of conduct comprising several acts and omissions which, viewed cumulatively, amounted to a repudiatory breach of trust and confidence?
- e. Did the employee resign in response (or partly in response) to that breach?

67. In line with the authority in **Lewis v Motorworld Garages Ltd** it is not necessary for us to make a determination that each one of the issues referred to above separately comprised a fundamental breach of the implied term.

68. Nor is there a need for there to be proximity in either time or nature between the event which constitutes the last straw and the previous acts of the employer which the employee asserts constituted a course of conduct serious enough to amount to a repudiatory breach of the implied term of trust and confidence. (see **Logan v Customs and Excise Commissioners**).

69. We also note the guidance of Dyson LJ in **Omilaju v Waltham Forest LBC** where he said:

“A final straw, not itself a breach of contract, may result in a breach of the implied term of trust and confidence. The quality that the final straw must have is that it should be an act in a series whose cumulative effect is to amount to a breach of the implied term... The act does not have to be of the same character as the earlier acts. It is essential quality is that, when taken in conjunction with the earlier acts in which the employee relies, it amounts to a breach of the implied term of trust and confidence. It must contribute something to that breach, although what it adds may be relatively insignificant.....

Moreover, an entirely innocuous act on the part of the employer cannot be a final straw, even if the employee genuinely, but mistakenly, interprets the act as hurtful and destructive of his trust and confidence in his employer. The test of whether the employees trust and confidence has been undermined is objective..”

70. The Claimant is very clear that the act which triggered her resignation was the email from SN of 2 December 2024 which we shall refer to as the last straw event.

71. In her submissions for the Respondent, Miss Cho put forward the proposition that the real reason for the Claimant's resignation was either the fact that she had secured a job offer which would have paid her a higher salary and/or the trauma that she experienced following the sad incident on 22 November 2024. The tribunal is prepared to accept that these may have been factors which had a bearing on the Claimant's decision to resign. However, the Claimant was very

clear in her evidence that it was the email of 2 December from SN which she regarded as the last straw.

72. This tribunal notes the guidance provided by the EAT in **Wright v North Ayrshire Council** where it was clarified that the employer's conduct must be "an" effective cause of the resignation, but need not be "the" effective cause. Consequently, even though there may have been multiple reasons why the Claimant chose to resign, if the last straw was one of them, then she will be able to establish constructive dismissal. We are satisfied that the email from SN on 2 December was an effective cause of the Claimant's resignation.
73. The Claimant resigned on 5 December 2024, 3 days after the last straw email and so we are satisfied that she did not affirm the contract after the last straw event.
74. Was the 2 December email by itself a repudiatory breach of the implied term of trust and confidence? We are not satisfied that it was. The tone of the email reflects SN's explanation that he found the Claimant's response to his email of 29 November unprofessional and insulting. The Tribunal accepts that he did have good reason to feel this way and to express his displeasure to a subordinate about the way she had written to him whilst copying other members of staff. We did not find the language used intemperate or, on an objective analysis, capable of being construed as an intention to repudiate the Claimant's contract of employment.
75. That said we do not regard the 2 December email as entirely innocuous such that it would fail to satisfy the test in **Omilaju**. The email was copied to the head of HR and contained a threat that SN was considering whether to take the "insult" further. Accordingly, we find that the email was capable of forming part of a course of conduct comprising several acts and omissions which, viewed cumulatively, could amount to a repudiatory breach of trust and confidence.
76. So the next question for the Tribunal is whether there was a course of conduct which viewed cumulatively could amount to a breach of trust and confidence. We will deal with each of the incidents cited by the Claimant in turn having regard to the decision of the House of Lords in **Malik**, which clarified that the conduct relied on as constituting the breach must:

"...impinge on the relationship in the sense that, looked at objectively, it is likely to destroy or seriously damage the degree of trust and confidence the employee is reasonably entitled to have in his employer."

Change management

77. The tribunal is satisfied that there were issues in merging the Portsmouth and Havant offices. The tribunal also accepts that some of the difficulties arising out of the merger caused the Havant team, and the Claimant in particular, stress and increased work. However, we cannot accept that there was any evidence to suggest that the Respondent had adopted a course of conduct which on any objective analysis could have been construed as likely to destroy

or seriously damage the Claimant's trust and confidence in the Respondent.

78. We are satisfied that at a difficult time for the Respondent, both in terms of financial and operational resource, it did its best to resolve or at least mitigate issues which arose. Clearly the Claimant was not satisfied that everything that could have been done, was being done, or that her suggestions were being taken seriously. However, we are satisfied that appropriate attempts were made to listen to what she had to say and where possible action taken to address concerns that she raised.
79. For example when difficulties arose with her reporting to Mr Marshall, SB took over as her line manager and we accept that SB spent considerable time working with the Claimant to try to address her concerns about the merger process.
80. In line with the foregoing we do not accept that the Claimant's concerns regarding the change process either constitute a fundamental breach of the implied term of trust and confidence or could be construed as part of a course of conduct which in totality could be construed as such a breach.

The email exchanges with Phil Marshall

81. Whilst we have taken into consideration the Claimant's explanation regarding the background to the genesis of these emails, as well as her explanation as to why she found the email exchanges with Mr Marshall offensive, we are required to apply an objective analysis.
82. The tone of the emails is cordial and constructive. We accept emphasis in the form of emboldening the figures and making them slightly larger probably adds little to the request for information that was being made. However, it is not uncommon for emphasis to be placed on key points of an email or key issues upon which information is required by emboldening or slightly enlarging the information or data that is in issue.
83. We do not find that on any objective analysis either of the emails sent by Mr Marshall could have been construed as an indication that the Respondent had repudiated the implied term of trust and confidence in the Claimant's contract as she alleges. We cannot accept that simply by emboldening three figures his emails could be construed as threatening or that taken in totality they could have been construed as an unreasonable demand for the Claimant to explain herself. Mr Marshall was not familiar with the practices and procedures in the Havant office and, notwithstanding the fact that the Claimant had obviously spent some time trying to educate him on those issues, it is not entirely unreasonable that he may have misunderstood some of the information that she imparted. These emails simply reflect a reasonable request for further clarification on something which clearly Mr Marshall did not understand.
84. Accordingly, we do not accept that the communications with Mr Marshall could constitute part of a course of conduct which cumulatively could amount to a

breach of the implied term of trust and confidence.

Multiple minor issues resulting in disruption to the Claimant's work and causing mental distress and anxiety

85. Save for the problems associated with email addresses none of the issues listed in the Claimant's particulars of claim were subject to any further particularisation or clarification by the Claimant in her evidence.
86. Having reviewed the list and taking into consideration that the Claimant stated that most of the issues were resolved within a matter of weeks, we can accept that they would have resulted in increased workloads and stress for her. However, after reviewing the list we do not find that, looked at objectively, these issues could have been regarded as likely to destroy or seriously damage the degree of trust and confidence the Claimant was reasonably entitled to have in her employer. In our assessment the types of issues listed by the Claimant were typical of the teething problems likely to be encountered when two entities seek to merge.
87. Notwithstanding this, it is clear that the cumulative impact of these issues and others associated with Change Management did have an effect on the Claimant's mental health. However, the Respondent reacted sympathetically to the situation when the Claimant advised them that she was struggling to manage. She was granted four days compassionate leave to reset and, on her own admission following return from that period of leave, was ready to try to undergo a reset to address the problems which had been arising as a result of the merger.
88. Taking all of the foregoing into consideration, the Claimant has failed to pinpoint any conduct which, viewed objectively, could be construed as repudiating the implied term of trust and confidence.

Death of a client on 22 November 2024

89. We have already determined that the last straw email of 2 December 2024 in isolation does not constitute a breach of the implied term of trust and confidence.
90. However, the Tribunal has also given consideration to the question of whether the support offered in the aftermath of the incident on 22 November could be construed as a breach of the implied term. We have concluded that it does not.
91. The response from SB on the day of the incident was more or less all that she could have managed given that she was located on the Isle of Wight on that day. Moreover, her offer to attend at Havant was declined by the Claimant.
92. The Vice Chair of the Trustees responded within 90 minutes of being informed of the incident by the Claimant with a sympathetic and supportive email. It was made very clear that the Claimant only had to indicate what help she thought

she needed and it would have been considered.

93. By her own admission, the Claimant did not know what help she needed because she had never experienced a trauma of this nature previously. Of course that applied equally to the leadership team at the Respondent.
94. Once again the Claimant has been unable to identify any specific breach of the implied term associated with the support she received which could be construed as a repudiation of the same. Accordingly we do not find that the support offered in the aftermath of the sad incident on 22 November could be construed objectively as a breach of the implied term.
95. In the absence of any breach of the implied term of trust and confidence the Claimant's complaint of constructive unfair dismissal must fail.

Judgment

1. The complaint of unfair constructive dismissal is not well-founded and is dismissed.

**Approved by
Employment Judge K Richardson
Dated: 11 March 2026**

Sent to the parties on
10 April 2026

Jade Lobb
For the Tribunal Office